

MEMO ENDORSED

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BY ECF

Hon. Valerie E. Caproni
United States District Judge
U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Javier Lopez
10 Cr. 367 (VEC)

Dear Judge Caproni:

I submit this letter in support of my request to be re-appointed as CJA counsel to Defendant Javier Lopez in the above-captioned matter. Briefly stated, the procedural history of Mr. Lopez's case in this Court is as follows. Two-count superseding indictment S3 10 Cr. 367 (TPG) (the "Indictment") was filed in the Southern District of New York in December 2011. Count One charged that from April 2009 through April 2010, Lopez and codefendant Johnny Nunez Garcia ("Garcia"), conspired to distribute and possess with intent to distribute 280 grams and more of crack, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C). PSR, ¶¶ 1-2.

Count Two alleged that during the same time period, Lopez and Garcia discharged firearms in furtherance of the drug-trafficking crime charged in Count One, and used and carried these firearms during and in relation to these offenses, in violation of 18 U.S.C. § 924(c)(1)(A). The Indictment also contained a forfeiture allegation. PSR, ¶¶ 3-4. On January 6, 2012, Lopez appeared before Judge Griesa and pled guilty, pursuant to a written plea agreement with the government, to both Counts in the Indictment.

The agreement stipulated that the minimum sentence was twenty years,¹ and, based on Lopez's Criminal history Category of I, the resulting Guidelines (or

¹ Counts One and Two each carried a statutory minimum sentence of ten years' imprisonment. In addition, the firearms charge in Count Two was required to run consecutively to Count One.

“U.S.S.G.”) sentencing range was 241 months to 271 months’ imprisonment. On October 11, 2013, Mr. Lopez was sentenced to a term of imprisonment of 240 months. He is currently serving that sentence.

It is my present expectation to submit an application for compassionate release pursuant to 18 U.S.C. § 3582(c). Accordingly, I request that the Court approve my application for re-appointment.

Thank you for the Court’s consideration of this application.

Respectfully submitted,

/s/

Richard B. Lind

cc: All counsel (by ECF)

Application GRANTED.

SO ORDERED.



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

5/6/2020